

**TITLE 8 DEVELOPMENT CODE**  
**DIVISION 11: PUBLIC FACILITIES FINANCING**  
**CHAPTER 1: DRAINAGE FACILITIES FINANCING.**  
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**811.0101 Intent.**

The intent of this chapter is to require the payment of drainage fees for most new construction that is within an adopted Local Area Drainage Plan. Such fees shall be paid prior to the issuance of building permits for the purposes of defraying the actual or estimated costs of constructing planned drainage facilities. The authority for this Chapter is derived from the power granted to local governments by the Constitution of the State of California to preserve the public health, safety and general welfare.

Readopted Ordinance 3341 (1989)

**811.0105 Establishment of Area Drainage Plans.**

(a) The provisions of this Chapter shall only affect those unincorporated portions of the County that are within the boundaries of an adopted Area Drainage Plan.

(b) The Board of Supervisors in adopting an Area Drainage Plan shall find and determine that development or redevelopment of the property in the Plan Area will require the construction of the facilities described in the Plan Area and that the drainage fees are fairly apportioned within the drainage area.

(c) The drainage fees shall be fairly apportioned based on one of the following: 1) on the basis of benefits conferred on property proposed to be developed or redeveloped, 2) on the need for drainage facilities created by such development and the development of other property in the drainage area, or 3) on the basis of the proportionate storm water run-off from each parcel. Fees to be paid shall not exceed the pro rata share of the amount of the total actual or estimated costs of all facilities within such area which would be assessable on such property if such costs were apportioned uniformly on a per acre basis.

(d) The Board of Supervisors, in adopting or amending the Area Drainage Plan, shall do all of the following:

(1) Identify the purpose of the fee.

(2) Identify the use to which the fee is to be put. If the use is financing public facilities, then the facilities should be identified. The facilities may be identified by reference to any public document which identifies the facilities for which the fee is charged.

(3) Determine how there is a reasonable relationship between the fee's use and the type of development project on which the fee is imposed.

(4) Determine how there is a reasonable relationship between the need for the public facility and the type of development project on which the fee is imposed.

(5) Determine how there is a relationship between the amount of the fees and the cost of the flood control facilities, or portion thereof, attributable to the development on which the fee is imposed.

(e) Area Drainage Plans and/or the drainage fee may be adopted by the Board, and thereafter amended at any time, only after holding a public hearing. The requirements of Government Code Section 66004 shall be followed prior to holding a public hearing establishing or modifying a fee for an Area Drainage Plan.

Readopted Ordinance 3341 (1989); Amended Ordinance 3357 (1989)

**811.0110 Fee Collection and Accounting.**

(a) Except as otherwise provided in Section 811.0120(c), whenever a building permit, grading permit, or other County approval in connection with new construction is requested within the boundaries of an Area Drainage Plan, the specified drainage fee shall be deposited to the appropriate Planned Drainage Facilities Fund. Any interest income earned by the money in the fund shall also be deposited in the fund. The amount of the drainage fee shall be specified within the schedule of fees for each Area Drainage Plan. The established fee shall be paid to the County prior to the issuance of building permits, grading permits, or other County approvals in connection with new construction.

(b) Drainage fees required by this chapter shall be paid to the County and deposited into a Drainage Facilities Fund. A separate fund shall be established for each Drainage Area. Monies in such funds shall be expended solely for the construction and reimbursement for the construction of drainage facilities, including related administration expenses, within the area from which the fees comprising the fund were collected, and/or to reimburse the local agency for the cost

of engineering, right of way acquisition and administrative services required to design and construct facilities within the Area Drainage Plan.

(c) Money may be advanced by a local agency to design and construct drainage facilities, related administrative services or to acquire necessary right-of-way within the area of an adopted Area Drainage Plan. Money so advanced shall be reimbursed to the local agency from the appropriate Planned Drainage Facilities Fund.

Readopted Ordinance 3341 (1989); Amended Ordinance 3357 (1989)

#### **811.0115 Drainage Fee Calculation.**

(a) Fees assessed at the time of the issuance of a building permit, grading permit or other County approval related to new construction shall be based upon the total area of the parcel provided said parcel has a net area of less than one (1) acre.

(b) Fees assessed at the time a building permit, grading permit or other County approval related to new construction is issued on a parcel which has a net area of one (1) acre or more shall be based on:

The area of the developed portion of the parcel or one (1) acre, whichever is greater. As used in this chapter, the phrase "area of developed portion of the parcel" means the area of that portion of the parcel lying within a single rectangle which encloses all improvements, landscaped areas, storage areas and parking areas; plus the area of all improvements related to the required access that are outside the area of the described rectangle.

(c) The amount of fees assessed and the area on which said fee is based shall be determined by the Building Official. The Building Official may require an applicant to submit all information necessary to calculate said fee(s).

Readopted Ordinance 3341 (1989); Amended Ordinance 3357 (1989)

#### **811.0120 Credit and Exceptions.**

(a) (1) When required for the implementation of an adopted Area Drainage Plan, an agreement may be entered into between a developer and the County whereby the developer may advance money for the construction of facilities, or design of such facilities within an Area Drainage Plan. Subject to the restrictions in subsection (a)(2), the sole security to the developer for repayment of money or other consideration advanced shall be money subsequently accruing in the appropriate Planned Drainage Facilities Fund. Reimbursement shall be for the amount agreed upon in advance only and shall not include interest or other charges. The agreement shall expire fifteen years after the date it was entered into, and any subsequent money paid into the fund shall accrue to the fund without obligation to a developer whose agreement has expired.

(2) The County may designate that up to twenty-five percent (25%) of the funds collected in a Planned Drainage Facilities Fund be utilized for reimbursement for any agreement entered into pursuant to subsection (a)(1). Other than the amount so designated by the County, Planned Drainage Facilities Funds shall not be used as reimbursement for any agreements authorized by subsection (a)(1).

(b) An agreement may be entered into between a developer and the County whereby considerations such as dedication of right-of-way, actual construction, or design work by a civil engineer may be accepted in lieu of part or all of the payment of drainage fees, the Board of Supervisors shall find that the alternative is acceptable and is equal to or greater in value than the required fee, prior to approving such an agreement.

(c) Drainage fees shall not be required as a condition of building permits on existing developed parcels for:

(1) Maintenance and repair of existing improvements.

(2) Reconstruction, when permits are issued within two years of the destruction of a structure due to fire, vandalism, wind, earthquakes or other natural or man-made disasters.

(3) Construction of garages, carports, storage buildings, patio covers, swimming pools, and similar structures, accessory to a single-family residence.

(4) Other construction or reconstruction which does not involve grading causing an increased rate of runoff when such construction or reconstruction falls within the boundaries of the rectangle described in Section 811.0115 as the "area of the developed portion of the parcel," as it existed prior to the effective date of an applicable area drainage plan. Applicant shall be responsible for providing sufficient information to establish that the proposed grading would not increase the rate of runoff. Assessment of fees due to such grading shall apply to only the portion of the parcel on which grading would contribute to an increased rate of runoff.

(d) If a drainage fee for a parcel, or portion thereof, has been previously paid, credit shall be given for such prior payment toward any fee payment required by this chapter.

(e) The provisions of this chapter shall not be applicable to property subject to other assessments for the same drainage facilities.

Readopted Ordinance 3341 (1989); Amended Ordinance 3357 (1989)

**811.0125 Surplus and Refunds.**

(a) After completion of facilities and the payment of all claims from any Planned Drainage Facilities Fund, the Board of Supervisors shall determine by resolution or other legislative action the amount of the surplus, if any, remaining in any of these funds. Any surplus shall be used, in those amounts as the Board may determine, for one or more of the following purposes:

(1) For transfer to the General Fund of the County, provided that the amount of the transfer shall not exceed five percent (5%) of the total amount expended from the particular fund, and provided that the funds transferred are used to support the operation and maintenance of those facilities for which the fees were collected.

(2) For the construction of additional or modified facilities within the same Area Drainage Plan.

(3) As a refund in the manner provided in subsection (b), below.

(b) Any surplus remaining shall be refunded as follows:

(1) There shall be refunded to the current owners of property for which a fee was previously collected, the balance of such monies in the same proportion which each individual fee collected bears to the total of all individual fees collected from the particular drainage area;

(2) Where property for which a fee was previously collected has subsequently been subdivided into more than one lot, each current owner of a lot shall share in the refund payable to the owners of the property for which a fee was previously collected in the same proportion which the area of each individual lot bears to the total area of the property for which a fee was previously collected; and

(3) There shall be transferred to the general fund of the County any remaining portion of the surplus which has not been paid to or claimed by the persons entitled thereto within two years from the date either of the completion of the improvements, or the adoption by the Board of Supervisors of a resolution declaring a surplus, whichever is later to occur.

(c) Subject to the provisions of subsections (a) and (b) above, commencing on the fifth year after imposition of a fee for an Area Drainage Plan and annually thereafter, the Board shall hold a hearing with respect to any portion of the fee remaining unexpended or uncommitted five or more years, and shall refund to the then owners of lots or units in development projects within the Area Drainage Plan on a pro rata basis any such unexpended or uncommitted fees plus interest accrued thereon, for which the Board is unable to demonstrate a reasonable relationship between the need for the fee and the purpose for which it was charged. When applicable, refunds shall be made in accordance with Government Code Section 66001.

Readopted Ordinance 3341 (1989); Amended Ordinance 3357 (1989)

**811.0130 Subject Areas.**

The provisions of this Chapter shall be applied only to areas within the boundaries of Local Area Drainage Plans that have been adopted by the Board of Supervisors, and shall have no force or effect in any other portion of the County. The rules, regulations, fees and plan areas are contained in the associated texts of each Area Drainage Plan.

Readopted Ordinance 3341 (1989); Amended Ordinance 3357 (1989)